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BY ELECTRONIC COMMENT FILING SYSTEM

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Lifeline and Link Up*, WC Docket No. 03-109; *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42 – Ex Parte Communication

Dear Ms. Dortch:

MetroPCS Communications, Inc. ("MetroPCS"),[1] by its undersigned counsel, hereby respectfully submits this written *ex parte* communication strongly recommending that the Commission immediately reform its Lifeline program by replacing the current carrier-paid system with a customer voucher system. While MetroPCS appreciates the recent efforts of the Commission to combat the rampant waste, fraud and abuse of the program, unfortunately, serious issues regarding the program still remain. These issues will continue to remain until the system aligns the interests of the carriers who receive the benefits, with the goals of the program as set forth by the Commission. MetroPCS recommends the below reforms in order to ensure that the Lifeline program meets the Commission's stated goals, and allows greater competition for customers who currently have limited service options. If such reforms are implemented, payments pursuant to the Lifeline program would be directly delivered to qualified applicants, who can then procure telecommunications services for their everyday lives from any carrier, not just those who have qualified as eligible telecommunications carriers ("ETCs").

[1] For the purposes of this *ex parte* communication, the term "MetroPCS" refers to MetroPCS Communications, Inc. and all of its FCC license-holding subsidiaries.

While the Commission Has Taken Preliminary Steps Towards Reforming the Lifeline Program, Additional Reforms Are Needed

The Lifeline program was created to provide qualified, low-income consumers with access to quality communications services.[2] The current system was established when telephone services were provided exclusively with wires, and there was a single monopoly telephone company who provided service. Participants in this program traditionally received discounted communications services for "a single telephone line in their principal residence,"[3] satisfying the statutorily stated goal of "providing telecommunications access to low-income subscribers, while at the same time ensuring that universal support is sufficient but not excessively costly."[4] The original system was relatively easy to police since a single carrier could determine whether multiple connections were being requested and the services were tied to the actual location where service was being provided.[5] However, in 2005, the Commission began to allow prepaid wireless resellers to also offer Lifeline services to participants.[6] The addition of new technologies, new participants, and new carriers "have created new challenges and pressures on the program, as well as new opportunities for consumers."[7] Unfortunately, these new opportunities also allowed for extensive fraudulent practices within the program, such as duplicative payments made to the providers of such services.[8]

In response to these problems, the Commission initiated a rulemaking proceeding on Lifeline reform with the goals of "significantly bolster[ing] protections against waste, fraud and abuse."[9] In its Report and Order, the Commission took its first step in modernizing and reforming the Lifeline system, and adopted near-term remedies for duplicate claims with the promise of establishing a more comprehensive resolution after further examination of the issues.[10] Such remedies included "codify[ing] the restriction that an eligible low-income consumer cannot receive more than one Lifeline-supported service at a time."[11] The Commission also amended its rules to adopt a process for the de-enrollment of a Lifeline

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[2] In the Matter of Lifeline and Link Up Reform and Modernization, Federal-State Joint Board on Universal Service, Lifeline and Link Up in WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, Notice of Proposed Rulemaking ¶ 1 (rel. Mar. 4, 2011) (the "NPRM").
[3] In the Matter of Lifeline and Link Up Reform and Modernization, Federal-State Joint Board on Universal Service, Lifeline and Link Up in WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, Report and Order ¶ 3 (rel. June 21, 2011) (the "Report and Order").
[4] Id. (citing 47 U.S.C. § 254 (b)(1), (3), (5)).
[5] Id. at ¶ 50.
[6] Statement of Julius Genachowski, Chairman, Fed. Commc'n Comm'n, (Mar. 3, 2011) http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-32A2.pdf ("Chairman Lifeline Statement").
[7] Id.
[8] For example, as noted below, customers could now sign up for services from multiple providers. In addition, customers of pre-paid services could sign up multiple times when the included amount of airtime in one of their service plans was exhausted.
[9] Report and Order at ¶ 6.
[10] Id.
[11] Id. at ¶ 7.

participant for the purpose of resolving duplicative claims know at the time of the Report and Order's adoption.[12] The Commission asserted that its actions would "address the potential waste" in the program "by preventing duplicative program payments for multiple Lifeline-supported services to the same individual."[13] However, the Commission has recognized the need for further action, and has issued additional requests for comment, as well as a recent Enforcement Advisory reminding ETCs of their obligation to confirm consumers' eligibility and warning of repercussions for violations.[14] In addition, Chairman Genachowski recently sent a letter to multiple state commissioners discussing the various Commission actions to identify and eliminate fraud, and requesting the states' continued support in detecting and deterring fraudulent practices.[15] While MetroPCS welcomes these reforms, it asserts that they are not sufficient to fix the rampant fraud that exists in the Lifeline program.

Further, these reforms fail to inject needed competition into the market for these services. Currently, in order to provide these services, carriers have to petition to receive ETC status in each state in which they plan to provide service. In many cases, these petitions will take considerable time to grant and may, in some instances, be challenged and denied. While MetroPCS will not address whether any particular ETC applications should or should not be granted, the plain fact is that the current process limits competition by imposing unnecessary entry barriers for the provision of these services.

The Commission Should Implement A Voucher Program To Combat The Significant Fraud, Waste And Abuse That Exists Within The Lifeline Program

MetroPCS applauds the recent Commission actions to rid the Lifeline program of fraud. However, despite the Commission's efforts, the statutorily-based goals of the Lifeline program are not being met as a result of the continued fraud, waste and abuse in the program. A recent letter addressed to the Chairman by Senator Claire McCaskill outlined this concern, recognizing the FCC's actions, but still "fear[ing] that the pending Order does not fully address the scope of fraud, waste and abuse that may be occurring in Lifeline."[16] Currently, customers of Lifeline services continue to sign up for multiple phones, which results in duplicate discounts being applied to a single household, violating both the rules and spirit of the program. Indeed, the Commission has recognized this concern, noting that every Lifeline dollar that "gets spent on duplicative service, ineligible participants, or other waste or inefficiencies is a dollar

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[12] Id. at ¶ 15.
[13] Id. at ¶ 1.
[14] FCC Enforcement Advisory No. 2011-11: Eligible Telecommunications Carriers Offering Lifeline Service are Reminded of Their Obligation to Confirm Consumers' Eligibility and to Avoid Duplicative Service, DA 11-1971 (Dec. 5, 2011).
[15] Letter from Julius Genachowski, Chairman, Fed. Commc'n Comm'n, to State Commissioners (Dec. 12, 2011) (available at http://www.fcc.gov/document/fcc-chairman-urges-states-fight-waste-fraud-lifeline-program).
[16] Letter from Senator Claire McCaskill, D-MO, to Chairman Julius Genachowski, Federal Communications Commission (Dec. 9, 2011) (available at http://mccaskill.senate.gov/files/documents/pdf/12.9.11%20-%20Letter%20to%20FCC%20on%20Lifeline%20Program.pdf) ("McCaskill Letter").

that could go to helping more low-income Americans connect."[17] Moreover, since the program only requires an annual certification of eligibility, in many cases, ineligible customers can receive subsidized or even free services for an entire year, during which time the carrier is also receiving payment for services to which the customer is not entitled. In addition, many of the verification procedures in individual states often do not require customer identification of eligibility, and therefore phones are provided to individuals who do not qualify for Lifeline support. At that point, it is anybody's guess as to where these government-funded phones end up – and unfortunately, they are usually resold on the secondary market.[18] Furthermore, the same carrier, or multiple carriers, may unknowingly extend service to the same customers, causing greater difficulty in detecting the fraud. In these cases, fraud is especially difficult to deter since carriers are not incented to put an end to these abuses. Indeed, these carriers actually benefit from the occurrence of such fraud. Such examples demonstrate that carriers cannot be relied upon to uphold the principles of the Lifeline program.

In order to meet the Commission's goals and prevent further duplicative discounts, MetroPCS urges the Commission to reform the program's service provider-paid model to a model where payments are made directly to the consumer through a voucher system. By allowing the payment to be made directly to the consumer, it would permit the consumer to decide how and on what telecommunications service to spend the payment. Such a method would also eliminate considerable involvement by the government in certifying ETCs, and would permit all telecommunications carriers to participate in the provision of these services – facilities-based as well as resellers. This model would spur competition for the industry, and would assist the government in meeting the goals by rooting out the Lifeline program's fraud, waste, and abuse opportunities much more easily, since it would be aware of who actually is receiving the subsidy payments. This model would allow for greater consumer choice, drive down prices and offer greater services and functionality to these consumers.

Adopting a voucher system will result in significant public interest benefits. Not only will such a program help curb and eliminate a considerable amount of the waste, fraud and abuse in the current system, but it also will inject significant competition into this portion of the industry. Such competition will drive better value for a segment of the American population that has largely been bypassed by the telecommunications and broadband revolution, and ultimately bridge the digital divide by providing low-income consumers a greater choice. Today, since ETCs have to undergo significant hurdles to become eligible,[19] there are limited numbers of ETCs in each service area, and as a result, choices for consumers are limited. Further, several programs allow for consumers to obtain free service and phones, but these services come with limited amounts of included minutes and significant costs if additional minutes (or services) are required. For example, Assurance Wireless (which is a Virgin Mobile product) has a free program which includes 250 minutes and no text or data services.[20] If the customer exceeds 250 minutes, additional charges are $0.10 per minute, or the customer can purchase an additional 250 minutes for

[17] Chairman Lifeline Statement.
[18] As Senator McCaskill stated in her letter referenced above, "[t]his scenario is troubling." McCaskill Letter.
[19] For instance, in many cases, ETCs have to register their specific offers with the governing authority.
[20] http://www.assurancewireless.com/Public/MorePrograms.aspx?State=CA.

$5.00/month.[21] In addition, text messages cost $0.10 per message and data is not available to the customer. On the other hand, Virgin Mobile offers unlimited text, data and 250 minutes of voice for $35.00/month.[22] If consumers were able to take their Lifeline voucher to Virgin Mobile, they could receive a considerably greater amount of services for a small additional charge. Further, consumers could use that same voucher for services such as those provided by MetroPCS, which offers unlimited voice, text, and web browsing on 4G LTE starting at $40.00/month.[23] Consumers could use the proposed Lifeline voucher to obtain voice service, and for a minimal additional charge, get messaging and data services. This would allow this segment of the population, which largely uses the mobile web as their primary or sole means of accessing the Internet, to purchase these cutting edge services at reduced prices.[24] This will obviously spur adoption of telecommunications services by low-income individuals -- which is the purpose behind the Lifeline program. In addition, since all carriers, facilities based as well as resellers, would be able to participate, consumers would have many more choices than they currently are offered. For example, in addition to the choices referenced above, consumers would have access to services like the recently launched PagePlus "12" plan, which provides 250 voice minutes, 250 text messages and 10 MB of data for just $12 per month.[25] A voucher system would allow low income consumers to take advantage of a program like this, while using Lifeline to pay for it. This would clearly support the goals of the Lifeline program and would allow competition, rather than government regulation, to increase the utility of the program – and its value to consumers.

Indeed, a voucher system has previously – and successfully – been implemented for similar purposes. During the Commission's transition from analog to digital television ("DTV"), a voucher program was instituted to ensure that low-income individuals were afforded the opportunity to gain access to DTV stations. During this year-long program, vouchers were distributed by the National Telecommunications and Information Administration ("NTIA") to eligible recipients, which provided a substantial discount towards the purchase of a digital converter box.[26] This program allowed low-income consumers to access modern communications directly, without additional carrier or vendor involvement, similar to the results intended via MetroPCS' suggested voucher program. Further, since eligibility was determined by reference to government program databases, having the government, rather than the industry, conduct the eligibility process eliminated a significant amount of fraud.

[21] Id.
[22] http://www.virginmobileusa.com/cell-phone-plans/beyond-talk-plans.jsp.
[23] http://www.metropcs.com/plans/default.aspx?tab=smartphones.
[24] Cecilia Kang, Going Wireless All the Way to the Web, WASH. POST, Jul. 10, 2010, at A6, available at: http://www.washingtonpost.com/wp-dyn/content/article/2010/07/09/AR2010070905521.html.
[25] Phil Goldstein, Page Plus MVNO Launches $12 Monthly Plan, FIERCEWIRELESS, Dec. 22, 2011, http://www.fiercewireless.com/story/page-plus-mvno-launches-12-monthly-plan/2011-12-22#ixzz1hNVR2woh, viewed on December 23, 2011.
[26] Public Notice, Fed. Commc'n Comm'n,, 30 Days and Counting to DTV Transition; FCC Concentrates on Preparing Consumers for June 12 Deadline, (May 13, 2009) http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-290711A1.pdf.

The Commission should follow the approach of the DTV voucher program when implementing a voucher program for Lifeline and should therefore empower the local government agencies, who are already responsible for regulating services which require eligibility to receive payments, to act. MetroPCS recognizes that requiring documentation from applicants could be a potential approach. However, this system could also lead to further fraudulent practices since individuals may be able to provide multiple entries by using the same documentation multiple times. Therefore, the best approach to combat these problems is to integrate the voucher system with other applicable programs that may confirm eligibility of recipients (i.e., food stamp programs), and provide these individuals directly with a voucher. This approach would ensure that the appropriate individuals are receiving the support they qualify for – and the support they truly need.

The Lifeline program clearly presents its share of difficulties with respect to the policing of the program. If the Commission determines that the suggested reforms will not be effective in combating the rampant fraud, waste and abuse in the Lifeline program, then it should strongly consider eliminating the program. Such a decision would save valuable Commission time and resources on futile attempts to fix this program, and would allow the Commission to direct such resources elsewhere.

Any questions regarding this notice should be directed to the undersigned.

Sincerely,

/s/ Carl W. Northrop

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Michael Lazarus
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